

REMARKS

The Office Action mailed February 06, 2007 has been carefully reviewed and the foregoing amendment has been made in consequence thereof.

Claims 10-20 are now pending in this application. Claims 10-20 stand rejected. Claims 10 and 11 are amended herein. No new matter has been added.

The rejection of Claim 10 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,823,878 to Gadini (hereinafter referred to as "Gadini") is respectfully traversed.

Gadini describes a machine control system that only provides for opening valves (9) and (20) to let a predetermined amount of water to enter a hydraulic circuit of a machine, substantially equal to an amount of water required for filling tanks (17) and (26), a duct 8 downstream of tank (26), a decalcifier (10), a duct (19) and a length of a duct (12) being upstream of a valve (13). A flow sensor (27) detects whether the predetermined amount of water has entered the hydraulic circuit. The flow sensor (27) is connected to an appropriate input of an electronic control system. The control system compares the gradually increasing value signal from sensor (27) with the present value stored in the control system. When the two values coincide, the control system closes valves (9) and (20).

Claim 10 recites "a dishwasher comprising: a wash chamber; a valve configured to deliver water into said wash chamber; a turbine ratemeter in flow communication with said valve, said turbine ratemeter generating a signal comprising a plurality of square waves representing a quantity of water flow through said valve; and a controller in signal communication with said turbine ratemeter, said controller controlling said valve in response to the signal received from the turbine ratemeter."

Gadini does not describe nor suggest a dishwasher as recited in Claim 10. Specifically, Gadini does not describe nor suggest a dishwasher including a turbine ratemeter in flow communication with a valve, wherein the turbine ratemeter generates a signal comprising a plurality of square waves representing a quantity of water flow through the

valve, and a controller in signal communication with the turbine ratemeter controlling the valve in response to the signal received from the turbine ratemeter. Rather, in contrast to the present invention, Gadini describes determining a volume of water by comparing a sensor signal with a preset value in a control system.

Accordingly, for at least the reasons set forth above, Claim 10 is submitted to be patentable over Gadini.

For at least reasons set forth above, Applicants respectfully request the 35 U.S.C. § 102(e) rejection of Claim 10 be withdrawn.

The rejection of Claims 11-20 under 35 U.S.C. § 103(a) as being unpatentable over Gadini in view of U.S. Patent No. 5,330,580 to Whipple, III et al. (hereinafter referred to as "Whipple") is respectfully traversed.

Gadini is described above.

Whipple describes a device (60) including a sensor for detecting power consumption surges of a motor (75) as a frame (20) receives liquid through a conduit (100). Cavitation of the liquid indicates that less than a sufficient amount has been received by frame (20) for a particular wash cycle. As frame (20) continues to receive liquid, cavitation of the liquid and, hence, oscillations or surges in the power consumption of motor (75) begin to dampen. This occurs because gradually machine (10) receives an amount of liquid sufficient for the wash cycle. The number of articles contained in frame (20) may affect when a sufficient amount of liquid has been provided because the articles may absorb liquid. Thus, a feedback control system is able to accommodate for the number of articles contained in frame (20) for a specific wash cycle. Eventually, when a sufficient amount of liquid has been received by frame (20) for that wash cycle, cavitation of the liquid substantially diminishes or ceases. This occurs because a pump (70) eventually receives a sufficient amount of liquid in a continuous stream. Likewise, oscillation or surges in the power consumption of motor (75) substantially dampen out or cease.

Applicants respectfully submit that the Section 103 rejection of the presently pending claims is improper. As is well-established, obviousness cannot be established by combining the teachings of the cited art to produce the claimed invention, absent some teaching, suggestion, or incentives supporting the combination. Neither Gadini nor Whipple, considered alone or in combination, describes or suggests the claimed invention. Further, in contrast to the Examiner's assertion within the Office Action, Applicants respectfully submit that it would not be obvious to one skilled in the art to combine Gadini and Whipple because there is no motivation to combine the references suggested in the art. Additionally, the Examiner has not pointed to any prior art that teaches or suggests to combine the disclosures, other than Applicant's own teaching.

As the Federal Circuit has recognized, obviousness is not established merely by combining references having different individual elements of pending claims. Ex parte Levengood, 28 U.S.P.Q.2d 1300 (Bd. Pat. App. & Inter. 1993). MPEP § 2143.01. Rather, there must be some suggestion, outside of Applicants' disclosure, in the prior art to combine such references, and a reasonable expectation of success must be both found in the prior art, and not based on Applicants' disclosure. In re Vaeck, 20 U.S.P.Q.2d 1436 (Fed. Cir. 1991). In the present case, neither a suggestion nor motivation to combine the prior art disclosures, nor any reasonable expectation of success has been shown.

Further, it is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the cited art so that the claimed invention is rendered obvious. Specifically, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the art to deprecate the claimed invention. It is also impermissible to pick and choose from any one reference only so much of it as will support a given position, to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one of ordinary skill in the art. The present Section 103 rejection is based on a combination of teachings selected from multiple patents in an attempt to arrive at the claimed invention. Because there is no teaching or suggestion in the cited art for the combination, the Section 103 rejection appears to be based on hindsight reconstruction in which isolated disclosures have been picked and chosen in an attempt to deprecate the present

invention. Of course, such a combination is impermissible, and for these reasons, Applicants request that the Section 103 rejection of the claims be withdrawn.

Moreover, and to the extent understood, neither Gadini nor Whipple, considered alone or in combination, describes nor suggests a dishwasher as recited in Claim 10. Specifically, Claim 10 recites “a dishwasher comprising: a wash chamber; a valve configured to deliver water into said wash chamber; a turbine ratemeter in flow communication with said valve, said turbine ratemeter generating a signal comprising a plurality of square waves representing a quantity of water flow through said valve; and a controller in signal communication with said turbine ratemeter, said controller controlling said valve in response to the signal received from the turbine ratemeter.”

Neither Gadini nor Whipple, considered alone or in combination, describes nor suggests a dishwasher as recited in Claim 10. More specifically, neither Gadini nor Whipple, considered alone or in combination, describes nor suggests a dishwasher including a turbine ratemeter in flow communication with a valve, wherein the turbine ratemeter generates a signal comprising a plurality of square waves representing a quantity of water flow through the valve, and a controller in signal communication with the turbine ratemeter controlling the valve in response to the signal received from the turbine ratemeter. Rather, in contrast to the present invention, Gadini describes determining a volume of water by comparing a sensor signal with a preset value in a control system. Whipple describes determining a volume of water based on removing cavitations of liquid from a pump.

Accordingly, for at least the reasons set forth above, Claim 10 is respectfully submitted to be patentable over Gadini in view of Whipple.

Claims 11-13 depend from independent Claim 10. When the recitations of Claims 11-13 are considered in combination with the recitations of Claim 10, Applicants submit that Claims 11-13 likewise are patentable over Gadini in view of Whipple.

Claim 14 recites a dishwasher comprising “a wash chamber; a valve and a turbine ratemeter positioned to deliver a metered amount of water into said wash chamber; and a

controller coupled to said valve and said turbine ratemeter, said controller configured to deliver a first amount of water to the dishwasher for a first dishwashing cycle; monitor at least one operation of the dishwasher during the first dishwashing cycle to detect an underfill condition; add additional water to the dishwasher upon detecting at least one underfill condition during the first dishwashing cycle; retain a first total amount of additional water added during the first dishwashing cycle; deliver the first amount of water to the dishwasher for a second dishwashing cycle subsequent the first cycle; monitor at least one operation of the dishwasher during the second dishwashing cycle to detect an underfill condition; add additional water to the dishwasher upon detecting at least one underfill condition during the second dishwasher cycle; retain a second total amount of additional water added during the second dishwashing cycle; and determine a second amount of water to deliver to the dishwasher for a third dishwashing cycle subsequent the second cycle using the retained first total amount of additional water added and the retained second total amount of additional water added.”

Neither Gadini nor Whipple, considered alone or in combination, describes nor suggests a dishwasher as recited in Claim 14. More specifically, neither Gadini nor Whipple, considered alone or in combination, describes nor suggests a dishwasher including a valve and a turbine ratemeter positioned to deliver a metered amount of water into a wash chamber, a controller coupled to the valve and the turbine ratemeter wherein the controller is configured to deliver a first amount of water to the dishwasher for a first dishwashing cycle, monitor a least one operation of dishwasher during the first dishwashing cycle to detect an underfill condition, add additional water to the dishwasher upon detecting at least one underfill condition during the first dishwashing cycle, retain a first total amount of additional water added during the first dishwashing cycle, deliver the first amount of water to the dishwasher for a second dishwashing cycle subsequent the first cycle, monitor a least one operation of the dishwasher during the second dishwashing cycle to detect a underfill condition, add additional water to the dishwasher upon detecting at least one underfill condition during the second dishwasher cycle, retain a second total amount of additional water added during the second dishwashing cycle, and determine a second amount of water to deliver to the dishwasher for a third dishwashing cycle subsequent the second cycle using the

retained first total amount of additional water added and the retained second total amount and additional water added. Rather, in contrast to the present invention, Gadini describes determining a volume of water by comparing a sensor signal with a preset value in a control system. Whipple describes determining a volume of water based on removing cavitations of liquid from a pump.

Accordingly, for at least the reasons set forth above, Claim 14 is respectfully submitted to be patentable over Gadini in view of Whipple.

Claims 15-20 depend from independent Claim 14. When the recitations of Claims 15-20 are considered in combination with the recitations of Claim 14, Applicants submit that Claims 15-20 likewise are patentable over Gadini in view of Whipple.

For at least reasons set forth above, Applicants respectfully request the 35 U.S.C. § 103(a) rejection of Claims 11-20 be withdrawn.

In view of the foregoing amendment and remarks, all the claims now active in this application are believed to be in condition for allowance. Reconsideration and favorable action is respectfully solicited.

Respectfully submitted,



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